

Somesh Kumar Vs. Khalsa Girls Sr. Sec School and anr

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Court : Delhi

Decided On : Apr-12-2013

Judge : Valmiki J. Mehta

Appellant : Somesh Kumar

Respondent : Khalsa Girls Sr. Sec School and anr

Advocate for Def. : Mr. J.S. Vohra, Mr. Rupinder Kaur

Advocate for Pet/Ap. : Ms. Kanika Sharma

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + WP(C) No.1205/2012 %
April 12, 2013 SOMESH KUMAR Through: Petitioner Ms. Kanika Sharma,
Advocate. versus KHALSA GIRLS SR. SEC SCHOOL AND ANR Respondents
Through: Mr. J.S. Vohra, Advocate for respondent No.1. Mr. Rupinder Kaur,
Advocate for respondent No.2. CORAM: HON'BLE MR. JUSTICE VALMIKI J.

MEHTA To be referred to the Reporter or not? VALMIKI J.

MEHTA, J (ORAL) 1. This writ petition challenges the suspension order dated 3.3.2011. Petitioner also seeks payment of suspension allowance. There were allegations against the petitioner of sexual harassment.

2. Petitioner had in this regard written a letter dated 4.9.2010 to the principal of respondent No.1 and which reads as under:- Dated:4/9/10 11 A.M. To The

Principal, Khalsa Girls Sr. Sec. School, Chuna Mandi, Pahar Ganj, New Delhi-55, Forwarded to the Honble Chairman in the emergency meeting Sd/- Amarjeet Kaur Sir, Subject: Regarding accusations by the Girls students of the school against my character and behaviour. Dear Sir, it is requested that serious accusations have been made against my character and behaviour by the students of the school in front of the members of the Education Department, therefore, I from myself assure you that I shall change my behaviour and I shall not give any cause of complaint regarding my character and behaviour to the management and teachers of the school. If I could not do so, then according to the law of Delhi School Education and aided School, my services from the school may be immediately terminated. I am making this request without any pressure. I am feeling guilty of my behaviour. Sd/-Sumesh Kumar (Applicant) Sumesh Kumar, Watchman Khalsa Girls Sr. Sec.School, Chuna Mandi, Pahar Ganj, New Delhi. File the document safely in his personal file for necessary action by S.M.C. Sd/Sd/Satpal Singh 4.9.10 Manager Chairman 4.9.10 3. Counsel for the petitioner states that this letter was got written by force from the petitioner.

4. Today, the fact of the matter is that suspension order has been passed way back on 3.3.2011 but no departmental enquiry in accordance with the Delhi School Education Act and Rules, 1973 has taken place against the petitioner.

5. In my opinion, suspension orders are interfered with by the Courts only in gravest of grave circumstances or when the order is totally without any basis. In case, such as the present, there are grave charges of sexual harassment against the petitioner of girl students. Petitioner has also written a letter asking for apology, which is signed by witnesses also, which letter the petitioner denies as having been got written allegedly by force. Therefore, in these facts no ground is made out for revocation of the suspension order dated 3.3.2011 which has been passed against the petitioner.

6. However, it is ordered that the respondent No.1-school will now forthwith commence departmental proceedings in accordance with the Delhi School Education Act and Rules, 1973 against the petitioner with respect to alleged misconduct. Petitioner will be issued show cause notice alongwith article of

charges in accordance with law. The petitioner will be supplied the necessary documents which are relied upon in the article of charges. Departmental proceedings be carried out in accordance with the provision of Delhi School Education Act and Rules, 1973 and be completed within a period of six months from today.

7. Counsel for respondent No.1 states that petitioner is being paid and will be continued to be paid the suspension allowance in accordance with the rules till the enquiry proceedings are completed against the petitioner.

8. Writ petition is accordingly dismissed, subject however to aforesaid observations for conducting of the enquiry. VALMIKI J.

MEHTA, J APRIL 12 2013 Ne

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